

SECRET

OGC 8-1270a

23 July 1958

OGC Has Reviewed

MEMORANDUM FOR: Chief, RI

SUBJECT: Document Destruction

1. We have your memorandum of 15 July 1958 on the above subject. You indicate that, to eliminate duplication, you would like to destroy many documents you have on file and that in some instances, for various mechanical reasons, the originals are more eligible for destruction than the carbons. You request our advice on the legal implications of destroying the signed originals and retaining the unsigned carbons. You raise three specific questions, which we answer below:

"a. Is the original, signed copy of a dispatch relating to operational policy and activity the only legally acceptable proof of who has taken or advocated what course of action with reference to which matter at what point in time?"

No. In contemplation of law a carbon is not a "copy" but rather a duplicate original and, as such, is admissible as primary evidence equally with a signed "hard" original. This is not to say that the signed original might not have greater weight as evidence should the genuineness of the document be questioned.

"b. Or, would the unsigned, carbon copy be acceptable in lieu of the original if it could be shown that the original was destroyed under a records disposal program conducted in the regular course of business?"

As indicated above, the carbon is admissible in evidence; it is not necessary to account for the failure to produce the original.

"c. Are there any other legal factors involved in the destruction of an original and retention of an unsigned copy of correspondence?"

Only, as implied in the answer to question a above, that the admissibility of a carbon (or, for that matter, of the signed

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original) does not presuppose its unavailability. Although a carbon is accepted equally as an original, it is obvious that a carbon might be more easily fabricated. Therefore, normally, the signed hard copy should be retained where feasible, the signature going outside the Agency, only the carbons are available for retention and they become the only means of maintaining permanent records of the transactions to which they refer. The use of such carbons as well as of photostatic copies, etc., in court proceedings, is much facilitated by the liberal provisions in section 1733(b) of Title 28 U.S.C. and in Rule 44 of the Federal Rules of Civil Procedure, regarding admission of authenticated copies.

2. In the light of all the above, it is our opinion that the destruction of the originals and retention of carbons of the documents in question would be unobjectionable. It is our understanding that originals are retained in most situations and that the carbons are destroyed and we think that this is, in the absence of complicating factors, the more desirable procedure.

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Office of General Counsel

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OGC

Distribution:

Original & 1 - Addressee

1 - Subject *- Records*

1 - Signer

1 - Chrono

1 - Legal

1 - Vital

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STATOTHR

15 July 1958

MEMORANDUM FOR: Office of General Counsel

SUBJECT: Destruction of Original Copies of Documents

1. This office is well aware that the original or ribbon, signed copy of correspondence is generally considered to be the "Official Record Copy" and as such is the copy normally retained. However we are faced with the problem of having the originals of certain correspondence held in one file which is of transitory value, while the carbon, unsigned copies and all attachments are held in a file series of enduring value. When in such circumstances the number of papers and the number of files involved is small, we feel that the original should be substituted for the carbon copy. Conversely, when the number of papers is large (on the order of 1,000 to 2,000 copies) and several hundred files are involved, we feel that good administration dictates the destruction of the file containing the originals and the preservation of the files containing the copies.

2. If this determination is not sound we are faced with two alternatives. We can exchange the carbons for the originals at great expense in man hours or we can store the originals indefinitely in case they are needed. This latter course of action would put a double requirement on our limited storage facilities, since we would be storing two copies of the same paper.

3. We feel, however, that before we can arrive at a final decision we need advice on the legal aspects of the problem. We therefore would appreciate answers to the following questions from your office:

- a. Is the original, signed copy of a dispatch relating to operational policy and activity the only legally acceptable proof of who has taken or advocated what course of action with reference to which matter at what point in time?
- b. Or, would the unsigned, carbon copy be acceptable in lieu of the original if it could be shown that the original was destroyed under a records disposal program conducted in the regular course of business?

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- c. Are there any other legal factors involved in the destruction of an original and retention of an unsigned copy of correspondence?

4. If there are any questions, please contact [redacted]
on extension [redacted]

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[redacted]

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✓ JOHN M. SCOTT
Chief, RI

[redacted]

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Approved For Release 2005/03/15 : CIA-RDP62-00634R000300230004-1

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Chief, RI

NO.

STATOTHR

DATE

15 July 1958

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

RECEIVED

FORWARDED

1. Office of General Counsel *221 post. 51.17*

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